

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

Jael Speights,

Petitioner,

v.

ORDER

07-C-542-C

Rick Raemisch, Greg Grams,
Janel Nickel, Dylan Radtke,
Amy Millard, Marc Clements,
Tom Gozinske and Amy
Smith,

Respondents.

Petitioner Jael Speights has submitted a letter dated October 15, 2007, asking the court to close his file in this case and return his complaint and supporting documents to him. I construe petitioner's letter to be a notice of voluntary dismissal pursuant to Rule 41, Federal Rules of Civil Procedure. Although petitioner's notice of voluntary dismissal will be accepted, I am unable to return petitioner's complaint and supporting papers to him. Plaintiff's original submissions make up the record of the case. Therefore, if petitioner wishes, he may write to ask the court to make a copy of his submissions for him at the indigent rate of \$.10 per page. Because his complaint and attachments are 62 pages in length, his request should be accompanied by a check or money order made payable to the

clerk of court in the amount of \$6.20.

With respect to petitioner's notice of voluntary dismissal of his case, Fed. R. Civ. P.

41(a)(1) provides:

. . .an action may be dismissed by the plaintiff without order of the court (1) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment. . . .Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

In this case, the respondents have not yet answered or moved for summary judgment.

Indeed, petitioner has not yet paid the initial partial payment he was assessed in this court's order of October 5, 2007. As I told petitioner in that order, he automatically will be held to have withdrawn his action voluntarily if, by November 1, 2007, he does not pay the initial partial payment. His case will be closed without prejudice to his refiling it at some future time and he will not owe the initial partial payment or any other portion of the filing fee. In light of petitioner's expressed desire to close this case, however, there is no point

waiting until November 1 to do so. I will accept petitioner's notice of voluntary dismissal and request that the clerk of court close this case immediately.

Entered this 23d day of October, 2007.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge